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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,393	07/24/2003	Utku Azman	1-13-7-12	9814
7590	05/12/2006		EXAMINER	
Docket Administrator (Room 3J-219) Lucent Technologies Inc. 101 Crawfords Corner Road Holmdel, NJ 07733-3030			NGUYEN, LEE	
			ART UNIT	PAPER NUMBER
			2618	

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/626,393	AZMAN ET AL.	
	Examiner LEE NGUYEN	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12, 15 and 17-23 is/are rejected.
- 7) Claim(s) 13, 14, 16 and 24 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

## DETAILED ACTION

### ***Information Disclosure Statement***

The IDS filed 11/24/2004 has been considered and recorded in the file.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 5-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Tang et al. (US 2004/0242231).

Regarding claim 1, Tang teaches a method for use in a wireless communications system in which a mobile terminal 100 communicates with a base station 50, the method comprising: selecting a transmission rate (appropriate data rate) on a reverse common signaling channel ((R-CCCH) from the mobile terminal to the base station based on at least one measured channel-related metric (SNR), all in para [0031] and [0034].

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Regarding claim 5, the alternate recitation is interpreted and rejected for the same reason as set forth in claim 1.

Regarding claims 6-7, Tang also teaches that the plurality of possible transmission rates are transmission rates that are supported by the base station and comprising receiving the values of the supported rates from the base station, see MCS values received from the F-CACH, para [0031].

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2, 8-11 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tang et al. in view of Bae et al. (US 2003/0093364).

Regarding claim 2, Tang fails to teach that the channel-related metric is a pilot strength which is measured by the mobile terminal. However, Bae teaches that the pilot strength measured by the mobile terminal can be used to determine transmission rate, see [0024]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Bae with Tang in order to efficiently control reverse data rate in the mobile communication system.

Regarding claim 8, Tang fails to teach comprising receiving the at least one associated threshold level from the base station. Bae teaches receiving at least one threshold level from the base station, see para [0024]. The motivation is the same reason as set forth in claim 2.

Regarding claim 9, the combination of Tang and Bae also teaches that the associated threshold level is received from the base station in an overhead message that is continuously broadcast by the base station, see para [0024] of Bae.

Regarding claim 10, Tang fails to teach that the associated threshold level is stored in the mobile terminal. Bae teaches that the threshold level is stored in the mobile

terminal, para [0038] of Bae. The motivation is the same reason as set forth in claim 2.

Regarding claim 11, Tang fails to teach that the channel-related metric is a pilot strength the measurement of which is compared with at least one associated pilot strength threshold level to determine the transmission rate. Bae teaches that the channel-related metric is a pilot strength the measurement of which is compared with at least one associated pilot strength threshold level to determine the transmission rate, see para [0024]. The motivation is the same reason as set forth above in claim 2.

Regarding claim 17, Tang teaches a method for use in a wireless communications system in which a mobile terminal 100 communicates with a base station 50, the method comprising: sending information to enable the base station select a transmission rate on a reverse common signaling channel based on at least one channel-related metric, see para [0031] and [0034]. Tang fails to teach that the channel quality metric is measured by the mobile terminal. Bae teaches that the channel quality metric is measured by the mobile terminal, see para [0024]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Bae with Tang in order to efficiently control reverse data rate in the mobile communication system.

Regarding claim 18, the combination of Tang and Bae also teaches that the information comprises at least one threshold level associated with the channel-related metric for

use by the mobile terminal in selecting the transmission rate from among a plurality of possible transmission rates by comparing the measured channel-related metric with the associated threshold level, see Bae, para [0024].

Regarding claim 19, the claim is interpreted and rejected for the same reason as set forth in claim 9.

Regarding claim 20, the claim is interpreted and rejected for the same reason as set forth in claim 6.

Claims 3-4, 12, 15, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tang et al. in view of Kim et al. (US 6,456,652).

Regarding claims 3-4, Tang fails to teach that the channel-related metric is both of power spectral density and pilot strength measured by the mobile terminal. Kim teaches that channel related metric is both of power spectral density and pilot strength measured by the mobile terminal, see abstract and col. 3, lines 4-8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Kim with Tang in order to optimize link coverage.

Regarding claims 12, 15, and 21-23, the claims are interpreted and rejected for the same reason as set forth in claims 3-4.

***Allowable Subject Matter***

Claims 13-14, 16 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 13, 24, the prior art of record fails to teach that the at least one pilot strength threshold level is modified by a re-probe offset to determine a transmission rate for a re-probe signal transmitted on the reverse common signaling channel.

Regarding claim 16, the prior art of record fails to suggest that the determined transmission rate is the maximum transmission rate that both comparisons indicate as being an acceptable transmission rate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is 571-272-7854. The examiner can normally be reached on FIRST FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANDERSON D. MATTHEW can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LEE NGUYEN  
PRIMARY EXAMINER